



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 7, 2005

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room 600, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:33 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the case(s) of (1) Gross & Holmes v. Redevelopment Agency of the City of San José, et al. (B) to confer with Legal Counsel with respect to anticipated litigation pursuant to Government Code Section 54956.9 Subsection (b), (1) to consider significant exposure in two (2) matters; (2) to consider initiation of litigation pursuant to Subsection (c) of Section 54956.9 of the Government Code in one (1) matter. (C) Conference with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) City Association of Management Personnel; (5) Association of Maintenance Supervisory Personnel; (6) Association of Engineers and Architects.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:10 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

The Silicon Valley Gay Men's Chorus performed, in recognition of June 2005 as "Gay and Lesbian Pride Month". (District 6)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, The Orders of the Day and the Amended Agenda were approved, with Item 2.12 deferred to June 28, 2005. (10-0.)

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0.)

2.1 Approval of minutes.

- (a) **Regular Minutes of December 14, 2004**
[Deferred from 4/5/05 – Item 2.1(e)]
- (b) **Regular Minutes of January 11, 2005**
- (c) **Joint City Council/Redevelopment Agency Minutes of January 11, 2005.**
- (d) **Regular Minutes of January 25, 2005**
- (e) **Joint City Council/San José Financing Authority Minutes of January 25, 2005.**

Documents Filed: The Regular Minutes dated December 14, 2004, January 11, 2005, and January 25, 2005; Joint City Council/Redevelopment Agency Minutes dated January 11, 2005, and Joint City Council San José Financing Authority Minutes dated January 25, 2005.

Action: The Minutes were approved.

- ### 2.2
- (a) **ORD. NO. 27436 – Amends Sections 3.28.200 and 3.28.340 of Chapter 3.28 of Title 3 of the San José Municipal Code to simplify the system of reserves in the Federated City Employees Retirement Fund.**
[Deferred from 5/24/05 – Item 2.2(a)]

Action: Deferred to June 21, 2005.

- (b) **ORD. NO. 27447 – Amending Sections 2.04.2020 and 2.04.2420 of Chapter 2.04 of Title 2 of the San José Municipal Code, Section 4.06.040 of Chapter 4.06, Sections 4.12.002, 4.12.010, 4.12.060, 4.12.070, 4.12.080, 4.12.146 and 4.12.180 of Chapter 4.12, 4.13.030 of Chapter 4.13 and Sections 4.16.010, and 4.16.130 of Chapter 4.16 of Title 4 to transfer purchasing responsibilities from the Director of General Services to the Director of Finance.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27447 executed on May 31, 2005, submitted by the City Clerk.

Action: Ordinance No. 27447 was adopted. (10-0.)

- 2.3 Approval of a first amendment to the agreement with the Center for Airport Management (CAM) for consultant services for the development of concession plans for the Norman Y. Mineta San José International Airport, amending the scope of services to include the development of the solicitation process for the food and beverage concession in the North Concourse and the development of the solicitation process for all retail locations at the Airport, increasing the compensation by \$165,000, for a total agreement amount not to exceed \$260,000, and extending the term of the agreement from August 31, 2005 to April 30, 2006. CEQA: Resolution Nos. 67380 and 71451, PP05-086. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated June 2, 2005, recommending approval of a first amendment to the agreement.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the first amended to the agreement was approved, with Staff directed to: (1) Evaluate the community outreach procedures at the end of the process. (2) Incorporate into the concessions, local nonprofits and others that sell items unique to San José. (10-0.)

- 2.4 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period March 16 through April 15, 2005. (City Auditor)**

Documents Filed: The Report of Activities and Findings for the Period March 16 through April 15, 2005, from the Office of the City Auditor.

Action: The report was accepted. (10-0.)

- 2.5 (a) Increase the library General Gifts appropriation to the Library Department by \$57,796.**
(b) Increase the estimate for Earned Revenue by \$57,796.
CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated May 16, 2005, recommending adoption of appropriation ordinance and funding source resolution amendments.

Action: Ordinance No. 27449, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Gift Trust Fund for the Library Department; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72691, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Gift Trust Fund", were adopted. (10-0.)

- 2.6 (a) **Adoption of the following 2004-2005 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) **Establish the appropriation to the Department of Public Works for the Delmas Park Sidewalk Improvement Project (PSM 354) in the amount of \$60,000.**
 - (2) **Establish an appropriation to the Department of Public Works for the Auzerai Streetscape Project (PSM 406) in the amount of \$52,000.**
 - (3) **Establish an appropriation to the Department of Public Works for the Scott Street Streetscape Project (PSM 407) in the amount of \$75,000.**
 - (4) **Increase the estimate for Earned Revenue by \$187,000.**
- (b) **Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:**
- (1) **The Delmas Park Sidewalk Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 24, 2005;**
 - (2) **The Auzerai Streetscape Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 24, 2005;**
 - (3) **The Scott Street Streetscape Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 24, 2005, attached hereto.**

CEQA: Not a Project. Council Districts 3 and 6. SNI: Delmas Park and Burbank/Del Monte. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated May 16, 2005, recommending adoption of appropriation ordinance, funding sources resolution amendments, and resolutions.

Action: Ordinance No. 27450, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Delmas Park Sidewalk Improvement Project, the Auzerai Streetscape Project and the Scott Street Streetscape Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72692, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; Resolution No. 72693, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Delmas Park Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area"; Resolution No. 72694, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Burbank Del Monte Neighborhood in the Strong Neighborhoods Initiative

2.6 (Cont'd.)

Redevelopment Project Area”, and Resolution No. 72695, entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Burbank Del Monte Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area”, were adopted. (10-0.)

- 2.7 (a) **Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2005-2006, and set June 28, 2005 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13th Street. (Economic Development)**
- (b) **Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for 2005-2006, expand the district boundaries and set June 28, 2005 at 1:30 p.m. as the date and time for the public hearing on the foregoing matters. CEQA: Exempt, PP03-05-165. Council District 3. SNI: St. James Square/University/Josefa/Auzerais/Burbank/ Del Monte. (Economic Development)**

Documents Filed: Memoranda from Director of Economic Development Paul Krutko, both dated May 16, 2005, recommending approval of the reports, and adoption of the resolutions.

Action: The reports were approved, and Resolution No. 72696, entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2005-2006 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing”, and Resolution No. 72697, entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2005-2006 in the Downtown Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing”, were adopted. (10-0.)

- 2.8 (a) **Report on bids and award of contract for the North First Street Parallel Main Phase II to the low bidder Preston Pipelines, in the amount of \$893,500 and approval of a contingency in the amount of \$90,000.**
- (b) **Adoption of the following appropriation ordinance amendments in the Major Facilities Fund:**
- (1) **Increase the appropriation to the Environmental Services Department for the North First Street Parallel Main project by \$240,000.**
- (2) **Decrease the Ending Fund Balance by \$240,000.**
- CEQA: Exempt, PP03-08-265. Council District 4. (Environmental Services/City Manager’s Office)**

2.8 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, and Budget Director Larry Lisenbee, dated May 16, 2005, recommending approval of the contract and adoption of an appropriation ordinance amendment.

Action: The contract was approved, and Ordinance No. 27451, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Major Facilities Fund for the North First Street Parallel Main Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0.)

2.9 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #17 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 16, 2005, recommending approval of award.

Action: The open purchase orders for FY 2004-2005 #17 was approved. (10-0.)

2.10 **Approval of a consultant agreement for skate park project management and design services with Beals Alliance, Inc. for the Lake Cunningham Regional Park for a term beginning July 1, 2005 through March 31, 2008, in an amount not to exceed \$500,000. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/ Public Works)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley and Director of Public Works Katy Allen, dated May 26, 2005, recommending approval of the agreement.

Discussion: Council Member Cortese remarked that essentially Staff will do a Master Plan Update through Phase 2 including the park, with the idea that Staff will introduce a skate park component to the public as part of that Master Plan update. Deputy Director of Parks, Recreation and Neighborhood Services Julie Mark replied that is correct.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos, and carried unanimously, the consultant agreement was approved. (10-0.)

- 2.11 Adoption of a resolution initiating proceedings and setting June 21, 2005 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Sunol No. 69 which involves the annexation to the City of San José of 0.25 acres of land more or less, located at the on the east side of Page Street, approximately 540 feet southerly of Douglas Street and adjacent to the City of San José annexation Sunol No. 58 and the detachment of the same from Sunol Sanitary, County Lighting County Services, Central Fire Protection and Area No.01 (Library Services) County Services. CEQA: Resolution No. 65459, File No. C04-113. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 16, 2005, recommending adoption of a resolution.

Action: Resolution No. 72698, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Sunol No. 69 Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (10-0.)

- 2.12 Adoption of a resolution authorizing the City Manager to execute a third amendment to the agreements with the following plan check consultants: 1) The Phillips Group; 2) Kutzmann & Associates; 3) Linhart, Petersen, Powers Associates; 4) R.K. Associates; 5) Esgil Corporation as follows:**
- (a) Extend the terms of the agreements by three months from July 1, 2005 to September 30, 2005;
 - (b) Amend the rate of compensation for single-family homes equal to 80% of the plan check fee;
 - (c) Increase the maximum compensation by \$50,000 for 3 agreements to the following amounts:
 - (1) Linhart, Petersen, Powers Associates by \$25,000 from \$116,00 to \$141,000.
 - (2) Kutzmann & Associates by \$20,000 from \$109,00 to \$129,000.
 - (3) Esgil Corporation by \$5,000 from \$100,000 to \$105,000.
- CEQA: Not a Project. (Planning, Building and Code Enforcement)**

Action: Deferred to June 28, 2005, per Orders of the Day.

- 2.13 Report on bids and award of contract for the San Tomas Aquino Creek Trunk Rehabilitation Phase III Project to the low bidder, Insituform Technology, Inc., in the amount of \$488,528, and approval of a contingency in the amount of \$49,000. CEQA: Exempt, File No. PP04-05-159. Council District 1. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 16, 2005, recommending award of the contract.

Action: The award of the contract to Insituform Technology, Inc. was approved. (10-0.)

- 2.14 Approval of the Purchase and Sale Agreements and adoption of a resolution authorizing the Director of Public Works to accept the deeds and execute all documents related to the purchase of two properties owned by Peter and Nina Draper, located at 16 and 22 North 20th Street, for a purchase amount of \$500,000 for each property and settle any relocation claims stemming from the City's purchase of these properties in the area of the proposed Roosevelt Park Expansion Project. CEQA: Negative Declaration, File No. PP03-12-397. Council District 3. SNI: Five Wounds/ Brookwood Terrace. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 16, 2005, recommending approval of the agreements, and adoption of a resolution.

Action: The Purchase and Sale Agreement was approved, and Resolution No. 72699, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Certain Documents for the Purpose of Properties Pertaining to Roosevelt Park Community Center Expansion Project", was adopted. (10-0.)

- 2.15 (a) Report on bids and award of contract for the Greater Gardner Street Reconstruction - Minor Avenue Project from West Virginia Street to Route 280 to the lowest responsive bidder, Wattis Construction Co. Inc., in the amount of \$566,969, and approval of a \$57,000 contingency.**
- (b) Adoption of the following 2004-2005 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) Increase the appropriation to the Department of Public Works for the Greater Gardner Street Improvements Project by \$661,000.**
- (2) Increase the estimate for Earned Revenue by \$661,000.**
- CEQA: Exempt, PP 04-03-101. Council District 3. SNI: Greater Gardner. (Public Works/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Budget Director Larry Lisenbee, dated May 16, 2005, recommending award of the contract, and adoption of appropriation ordinance and funding sources resolution.

Action: The award of the contract to Wattis Construction Company, Inc. was approved, and Ordinance No. 27452, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Greater Gardner Street Improvement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72700, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (10-0.)

- 2.16 Approval of an agreement with San José Unified School District for the acquisition of a public services/public utilities easement on a portion of the Simonds Elementary school site, at 6515 Grapevine Way, adjacent to the new joint Almaden Community Center and Branch Library, at 6445 Camden Avenue, with the City to pay \$3,500 to reimburse District's transaction costs, and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Exempt, File No. PP03-11-367. Council District 10. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 16, 2005, recommending approval of the agreement and adoption of a resolution.

Action: The agreement with San José Unified School District was approved, and Resolution No. 72701, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute any Additional Documents Necessary to Complete the Acquisition of a Public Services/Public Utilities Easement on Property Owned by the San José Unified School District Needed for Completion of the Almaden Community Center/Branch Library Project", was adopted. (10-0.)

- 2.17 Adoption of a resolution authorizing the City Manager to negotiate and execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority (VTA) for the BART Extension Project to enable VTA to provide funding in an amount not to exceed \$190,000 annually for City project delivery support services through June 30, 2007. CEQA: Resolution to be adopted based upon the Santa Clara Valley Transportation Authority (VTA) Final Environmental Impact Report for the Silicon Valley Rapid Transit Project approved by the VTA Board of Directions on December 9, 2004, Agenda Item 10. Council Districts 3, 4 and 6. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated May 18, 2005, recommending adoption of a resolution.

Action: Resolution No. 72702, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority for the BART Extension Project to Enable VTA to Provide Funding in an Amount Not To Exceed \$190,000 Annually for City Project Delivery Support Services Through June 2007", and CEQA Resolution No. 72703 were adopted. (10-0.)

- 2.18 Adoption of a resolution authorizing the City Manager to submit the grant application for various pedestrian and bicycle projects for 2005-2006 Transportation Development Act, Article 3 grant funding in an amount up to \$675,397, and authorizing the City Manager to accept the grant if awarded and negotiate and execute the required grant documents. CEQA: Exempt, File No. PP05-067. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated May 18, 2005, recommending adoption of a resolution.

2.18 (Cont'd.)

Action: Resolution No. 72704, entitled: "A Resolution of the Council of the City of San José Approving the List of Proposed Projects for Fiscal Year 2005-2006 Transportation Development Act, Article 3 (TDA 3) Grant Funding, and Authorizing the City Manager to Negotiate and Execute the Necessary Grant Funding Agreements", was adopted. (10-0.)

**2.19 Approval of nominations to the San José Silicon Valley Workforce Investment Network Board of Directors and the SVWIN Youth Council Committee. (Mayor)
(Rules Committee referral 6/1/05)**

Documents Filed: Memorandum from Mayor Gonzales, dated May 20, 2005, recommending the nominations.

Action: The nomination of Rocky Maddex was approved. (10-0.)

**2.20 Approval of Mayor Gonzales' travel to Chicago, Illinois, to attend the Annual Meeting of the United States Conference of Mayors from June 9 through June 13, 2005. (Mayor)
(Rules Committee referral 6/1/05)**

Documents Filed: Memorandum from Mayor Gonzales, dated May 31, 2005, requesting approval of travel.

Action: Mayor Gonzales' travel was approved. (10-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee – May 25, 2005
Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Report, dated May 25, 2005.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review June 7, 2005 Council Agenda

The Committee recommended approval of the June 7, 2005 City Council Agenda.

(2) Add New Items to May 31, 2005 Agenda

The Council Meeting of May 31, 2005 was canceled

3.2 Report of the Rules Committee – May 25, 2005 (Cont'd.)
Vice Mayor Chavez, Chair

- (b) City Council (Cont'd.)
 - (3) List of Reports Outstanding

There were no items.

- (c) Legislative Update
 - (1) State. Attachment: Memorandum from City Manager Del Borgsdorf, dated May 20, 2005, recommending approval of the report.

- (a) Governor's May Revision of the 2005-06 State Budget

The Committee accepted the report.

- (2) Federal - There was no report.

- (d) Meeting Schedules
 - (1) Approval of the City Council Meeting Schedule for the period of August to December 2005. Attachment: Memorandum from Senior Executive Analyst for City Manager's Office Nadine Nader, dated May 20, 2005 recommending approval of the schedule.

The Committee recommended approval of the City Council Meeting Schedule for the period August to December 2005.

- (2) Request to Schedule City Council Study Session on Evergreen Visioning Project. Attachment: Memorandum from Senior Executive Analyst for City Manager's Office Nadine Nader, dated May 19, 2005 recommending approval of the date.

The Committee recommended scheduling a City Council Study Session on Evergreen Visioning Project on June 8, 2005, from 2:00 p.m. to 5:00 p.m. in the City Council Chamber; and recommended scheduling a Rules-in-Lieu Meeting for Wednesday, June 8, 2005 at 11:30 a.m. in the Office of the City Clerk Lee Price.

- (3) Request to Schedule City Council Study Session on Getting Families Back to Work. Attachment: Memorandum from Senior Executive Analyst for City Manager's Office Nadine Nader, dated May 19, 2005 recommending approval of the scheduled dates.

The Committee recommended scheduling a City Council on Getting Families Back to Work III on October 5 and 6, 2005, for all day sessions, in a location to be determined.

3.2 Report of the Rules Committee – May 25, 2005 (Cont'd.)
Vice Mayor Chavez, Chair

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated May 5, 2005, transmitting items for the public record and administration for the period of April 27-May 3, 2005, and May 4-May 17, 2005.

Vice Mayor Chavez recommended that the Housing Trust of Santa Clara County's request to be placed on a City Council Agenda be approved and suggested that the matter be placed on the same agenda as the Redevelopment Agency Budget in August 2005. Council Member Chirco recommended that Staff contact the Santa Clara County Tobacco Coalition regarding their request to be placed on a City Council Agenda and to encourage the Coalition to make their presentation to the Healthy Neighborhood Venture Fund Advisory Committee. In response from a letter from Ms. Amanda Greiten, dated May 31, 2005, Gil Candelaria, Department of Transportation, explained 72-Hour Vehicle Abatement procedures. Staff was asked to respond to Ms. Greiten. The Committee noted and filed the remaining items on the Public Records.

- (f) Appointments to Boards, Commissions and Committees - There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Monthly Report on Outstanding Public Records Act Requests for April 2005. Attachment: Memorandum from City Clerk Lee Price, dated May 5, 2005, transmitting the monthly report on Outstanding Public Record Act Requests.

The Committee filed the report.

- (2) Audit of Regional Parks Staffing and Maintenance Levels. Attachment: Memorandum from City Auditor Gerald Silva, dated May 9, 2005, recommending eliminating an audit.

The Committee recommended the elimination of an audit of the Regional Parks Staffing and Maintenance Levels from the City Auditor.

- (3) Accept Surplus Campaign Funds and Approve a Donation to the San José Youth Symphony. Attachment: Memorandum from Council Member Williams, dated May 19, 2005, directing Staff to accept surplus funds and approve a donation.

The Committee recommended acceptance of surplus campaign funds in the amount of \$2,005 and recommended approval of a donation of \$2,005 to the San José Youth Symphony. Staff was directed to take the appropriate actions.

3.2 Report of the Rules Committee – May 25, 2005 (Cont'd.)
Vice Mayor Chavez, Chair

(h) Oral Communications

- (1) William Garbett expressed concern about the availability of documents relating to the May 24, 2005 Financing Authority Meeting.
- (2) Dawn Wright, District 4, requested clarification as to when Council Member Reed's "Plugging Loopholes in Campaign Contributions Limits" item would be placed on the Rules Committee Agenda. It was noted that this item would be considered on June 1, 2005.

(i) Adjournment

The meeting was adjourned at 2:29 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the Report of the Rules Committee and the actions of May 25, 2005, were accepted. (10-0.)

3.3 Report of the Making Government Work Better Committee – May 19, 2005
Council Member Reed, Chair

Documents Filed: The Making Government Work Better Committee Report, dated May 19, 2005.

- (a) City Fleet – Special Purpose Vehicles, SUV's, Passenger Vans. Attachment: Memorandum from City Auditor Gerald Silva, dated May 5, 2005, transmitting the report.

The Committee accepted the Staff report.

- (b) Public Art Project Allocation Process. Attachment: Report of an Audit of the Public Art Program, from the Office of the City Auditor, dated May 2005.

The Committee accepted the Staff report with the following recommendations:

- (1) Staff to return to the Committee with a proposal that includes the ideas discussed for recommendation #3.
- (2) The Service Delivery Model (including public outreach and participation) should be reviewed now that the audit is complete.
- (3) The audit recommendations to be forwarded to the Redevelopment Agency Rules Committee for consideration and response.

- (c) Northside Community Center - Deferred until June 2005.

- (d) Public Works Transportation Contract Cycles - Deferred until June 2005.

- (e) Environmental Services Department Laboratory - Deferred until June 2005.

3.3 Report of the Making Government Work Better Committee – May 19, 2005 Council Member Reed, Chair (Cont'd.)

- (f) Quarterly Debt Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated May 10, 2005, transmitting the report.

The Committee accepted the Staff report.

- (g) Quarterly Investment Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated May 10, 2005, transmitting the report.

The Committee accepted the Staff report.

- (h) Customer Service Standard Update - Deferred until June 2005.

- (i) Major IT Project Update. Attachment: Memorandum from Interim Director Information Technology James Helmer, dated May 11, 2005, transmitting the report.

Deferred until June 2005.

- (j) Oral Petitions - There were none.

- (k) Adjournment - The meeting was adjourned at 3:55 p.m.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte, and carried unanimously, the Report of the Making Government Work Better Committee and the actions of May 19, 2005, were accepted. (10-0.)

3.4 Adoption of a resolution of the City Council:

- (a) **Authorizing the issuance of City of San José General Obligation Bonds, Series 2005 (Libraries and Public Safety Projects) (the "Series 2005 Bonds") in the not-to-exceed aggregate principal amount of \$55,000,000 to be sold at a competitive sale.**
- (b) **Approving, in substantially final form, the Fiscal Agent Agreement, the Preliminary Official Statement, Official Notice Inviting Bids, and ratifying the publication of the Notice of Intention to Sell, and authorizing the City Manager or other authorized officers to execute these documents and other related documents as necessary in connection with the issuance of the Series 2005 Bonds.**

**CEQA: Not a Project. (Finance)
(Deferred from 5/24/05 – Item 3.4)**

Documents Filed: (1) Memorandum from Deputy Director of Finance Julia Cooper, dated May 27, 2005, recommending adoption of resolution. (2) Memorandum from Deputy Director of Finance Julia Cooper, dated May 27, 2005, transmitting the Staff report. (3) Supplemental memorandum from Deputy Director of Finance Julia Cooper, dated May 31, 2005, transmitting additional information.

3.4 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle, and carried unanimously, Resolution No. 72705, entitled: "A Resolution of the Council of the City of San José Authorizing the Issuance of its General Obligation Bonds, Authorizing and Directing the Execution of a Fiscal Agent Agreement and Certain Other Related Documents, and Authorizing Actions Related Thereto", was adopted. (10-0.)

3.5 Council discussion and direction to staff regarding the installation of cameras for the Committee Rooms and a system for video streaming, archiving, and audio recording of meetings in the New City Hall. CEQA: Not a Project. (City Manager's Office/Office of the City Clerk)

Documents Filed: Memorandum from Public Outreach Manager Tom Manheim and City Clerk Lee Price, dated May 31, 2005, recommending acceptance of report and for direction to Staff.

Discussion: Outreach Manager Tom Manheim responded to brief questions. City Manager Del Borgsdorf noted costs were well within the budget. Council Member Reed spoke in favor.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the report was accepted, with Staff directed to move forward with the cameras and video streaming immediately. (10-0.)

3.6 Approval of the renewal of the City Auditor's contract for a 4-year term beginning July 1, 2005. (Mayor) (Rules Committee referral 6/1/05)

Documents Filed: Memorandum from Mayor Gonzales, dated June 3, 2005, recommending approval of the contract.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the City Auditor's contract was approved. (10-0.)

3.7 Approval of the advance of the July 2005 Operation & Maintenance payment to the Mexican Heritage Corporation in June 2005, and \$20,000 of the advancement to be directly reimbursed to the Mayor's Office Account. (Mayor/Campos) (Rules Committee referral 6/1/05)

Documents Filed: Memorandum from Mayor Gonzales and Council Member Campos, dated June 6, 2005, recommending approval of the advance and reimbursement.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the advance and the reimbursement were approved, with Staff requested to return on 6/14/05 with the necessary appropriate actions. (10-0.)

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – May 16, 2005 Council Member Chirco, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report, dated May 16, 2005.

- (a) Citywide Street Sweeping Update. Attachment: Memorandum from Director of Transportation James Helmer and Director of Environmental Services Carl Mosher, dated May 3, 2005, transmitting the report.

The Committee accepted the Staff report.

- (b) Vehicle Abatement Update. Attachment: Memorandum from Director of Transportation James Helmer and Director of Planning, Building and Code Enforcement Stephen Haase, dated May 5, 2005, transmitting the report.

The Committee accepted the Staff report.

- (c) Strong Neighborhoods Initiative (SNI) Update and Discussion. Attachment: Memorandum from Assistant City Manager Mark Linder, dated May 2, 2005, transmitting the report.

The Committee accepted the Staff report.

- (d) Anti-Graffiti and Litter Program Status Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 3, 2005, transmitting the report.

The Committee accepted the Staff report.

- (e) Oral Petitions - There were none.

- (f) Adjournment - The meeting was adjourned at 2:32 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member LeZotte, and carried unanimously, the Report of the Building Strong Neighborhoods Committee and the actions of May 16, 2005, were accepted. (10-0.)

4.2 Report of the Driving a Strong Economy Committee – May 23, 2005 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report, dated May 23,* 2005.

- (a) Fair Housing and Predatory Lending Education Update. Attachment: memorandum from Director of Housing Leslye Corsiglia, dated May 6, 2005, transmitting report.

The Committee accepted the Staff report.

- (b) Economic Impact of the New City Hall. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated May 11, 2005, transmitting the report.

The Committee accepted the Staff report.

- (c) Update on Access San José and Team San José. Attachment: Memorandum from Michael Ross, CEO, Team San José, dated April 29, 2005, transmitting the report.

The Committee accepted the Staff report.

- (d) Update on the City's Economic Development Indicators

Dropped.

- (e) Oral Petitions - There were none.

- (f) Adjournment - The meeting was adjourned at 3:23 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Report of the Driving a Strong Economy Committee and the actions of May 23, 2005, were accepted. (10-0.)

4.3 Review and discussion of regulations pertaining to Off-Sale of Alcohol Beverages. (Campos) (Deferred from 5/24/05 – Item 4.3)

Action: Deferred to June 14, 2005.

4.4 Public Hearing and adoption of a resolution vacating a portion of Serenity Way at Casual Way. CEQA: Exempt. Council District 10. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (Public Works)
(Continued from 5/24/05 – Item 4.4)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 4, 2005, recommending conducting public hearing and adoption of a resolution. (2) Supplemental memorandum from Planning Commission Secretary Stephen Haase, dated May 25, 2005, transmitting the Planning Commission recommendation. (3) Proof of Publications of Notices of Public Hearings, executed on May 4, May 11, May 24 and May 31, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Resolution No. 72706, entitled: “A Resolution of the Council of the City of San José Vacating a Portion of Serenity Way at Casual Way and Reserving Public Service Easements”, was adopted. (10-0.)

4.5 Conduct a public hearing and adopt a resolution vacating a portion of Piercy Road immediately south of Silver Creek Valley Road, to include reservation of an easement for pedestrian/bike trail purposes in addition to reserving easements for emergency access, storm drain, roadway, aerial, and rip-rap as previously described in Resolution No. 72673, which was approved by Council on May 17, 2005. CEQA: EIR, Resolution No. 70021. Council District 2. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 16, 2005, recommending conducting a public hearing and adoption of a resolution. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated June 3, 2005, transmitting additional information. (3) Proofs of Publications of Notice of Public Hearings, executed on May 24, 2005 and May 31, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, Resolution No. 72707, entitled: “A Resolution of the Council of the City of San José Vacating Portions of Piercy Road Immediately South of Silver Creek Valley Road and Reserving a Storm Drain Easement, Rip Rap Easement, Roadway Easement, A Pedestrian/Bike Trail Easement, and Emergency Access Easement”, was adopted. (10-0.)

4.6 Public Hearing, special election, and take the following actions related to the formation of Community Facilities District No. 11 (Adeline - Mary Helen).

(a) Adoption of a resolution for each of the following items to:

- (1) Establish Community Facilities District No. 11 and authorize the levy of a special tax.**
- (2) Declare the results of the special election; and if approved, direct the recording of the notice of the special tax lien for Community Facilities District No. 11.**

(b) Approval of an ordinance imposing the levy of special taxes for Community Facilities District No. 11.

CEQA: Exempt, File No. PP05-021. Council District 7. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 16, 2005, recommending conducting a public hearing, adoption of resolutions, and approval of an ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, Resolution No. 72708, entitled: "A Resolution of the Council of the City of San José of Formation of Community Facilities District No. 11 (Adeline-Mary Helen), Authorizing the Levy of a Special Tax Therein, Preliminarily Establishing an Appropriations Limit Therefore and Submitting Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors Thereof", and Resolution No. 72709, entitled: "A Resolution of the Council of the City of San José Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien for Community Facilities District No. 11 (Adeline-Mary Helen)", were adopted and Ordinance No. 27453, entitled: "An Ordinance of the City of San José Levying Special Taxes Within Community Facilities District No. 11 (Adeline-Mary Helen)", was passed for publication. (10-0.)

4.7 Preliminary approval of the report as filed by the Willow Glen Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy increased annual assessments for 2005-2006 at the June 28, 2005 at 1:30 p.m. public hearing. CEQA: Exempt, PP03-05-165. Council District 6. (Economic Development)

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated May 16, 2005, recommending preliminary approval of the report and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on May 6, 2005, submitted by the City Clerk.

Public Comment: Judy Kane, Willow Glen Business Association spoke in favor of the recommendation. William Johnson spoke in opposition.

4.7 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, Resolution No. 72710, entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Increased Assessments for Fiscal Year 2005-2006 in the Willow Glen Business Improvement District at the June 28, 2005 Public Hearing Pursuant to the Parking and Business Improvement Area Law of 1989", was adopted. (10-0.)

4.8 (a) Approval of the following actions to continue funding for the preparation of the Coyote Valley Specific Plan, and its related environmental documents and regulatory permits:

- (1) Approval of an amended and restated funding agreement with Coyote Housing Group, LLC for the work associated with the preparation of the Coyote Valley Specific Plan, related environmental documents, and regulatory permits, for a term through June 30, 2006; and increase the amount of funding to cover staff and consultant cost through March 31, 2006 by approximately \$1,970,000, from the previously approved amount of approximately \$10,900,000 to \$12,800,000; and include delegation of authority to the Director of Planning, Building and Code Enforcement to approve minor amendments to the funding agreement to account for increases in funding that may be received from Coyote Housing Group, LLC, and to extend the term of this agreement for up to 18 months.**
- (2) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund as follows:**
 - (a) Increase the City-Wide appropriation for the Coyote Valley Specific Plan by \$5,637,968; and**
 - (b) Increase earned revenue from Other Revenue by \$5,637,968.**
- (b) (1) Adoption of a resolution authorizing the City Manager to negotiate and execute the following 14 Coyote Valley Specific Plan Consultant Agreements:**
 - (a) Dahlin Group land planning and urban design firm to complete the preparation of the Coyote Valley Specific Plan and Design Guidelines for an amount not to exceed \$470,630.**
 - (b) KenKay Associates land planning and landscape architecture firm to complete the preparation of the Coyote Valley Specific Plan and Design Guidelines for an amount not to exceed \$433,420.**
 - (c) Crawford Multari & Clark Associates to prepare a form-based zoning code for the Coyote Valley Specific Plan for an amount not to exceed \$97,860.**
 - (d) Economic and Planning Systems (EPS) to prepare economic analysis, including market studies, financial feasibility and fiscal analyses, for the Coyote Valley Specific Plan for an amount not to exceed \$300,000.**

Item continued on the next page

- 4.8 (b) (1) Adoption of a resolution authorizing the City Manager to negotiate and execute the following 14 Coyote Valley Specific Plan Consultant Agreements (Cont'd.)**
- (e) Apex Strategies to provide outreach and facilitation services during the preparation of the Coyote Valley Specific Plan and its environmental documents and regulatory permits for an amount not to exceed \$268,500.**
 - (f) Wetland Research Associates (WRA) to provide services for the evaluation of biological issues related to the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$139,400.**
 - (g) Schaaf and Wheeler to provide services for the evaluation of hydrologic issues related to the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$140,000.**
 - (h) Hexagon Transportation to provide transportation engineering support for the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$224,415.**
 - (i) HMM Engineers to provide civil and infrastructure engineering support for Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$575,600.**
 - (j) Engeo Engineers to provide geotechnical and geologic services and support for the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$37,500.**
 - (k) Basin Research Associates to provide archeological and cultural resources services for the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$7,000.**
 - (l) Lowney Associates to provide services for the evaluation of hazardous materials for the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$18,000.**
 - (m) David J. Powers and Associates, and a team of technical sub-consultants, to prepare the Environmental Impact Report and required technical documents for the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$1,828,570.**
 - (n) Morrison and Foerster to provide legal support for the regulatory permits required for the Coyote Valley Specific Plan (CVSP) for an amount not to exceed \$180,000.**

**CEQA: Exempt, PP03-06-211. Council District 2. (Planning, Building and Code Enforcement/City Manager's Office)
[Deferred from 5/24/05 – Item 4.5(a)]**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase and Budget Director Larry Lisenbee, dated May 18, 2005, recommending increasing the funding. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 27, 2005, transmitting additional information. (3) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 31, 2005, responding to questions raised at the Rules Committee on May 25, 2005.

4.8 (Cont'd.)

Discussion: Director of Planning, Building and Code Enforcement Stephen Haase responded to Council questions regarding terms of the consultant contracts. City Attorney Richard Doyle advised that the contracts cannot be executed without concurrent approval of the funding. Mayor Gonzales encouraged Staff to keep the project on track and to advise the Council of any outstanding issues. Council Member Williams concurred.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the continued funding for the preparation of the Coyote Valley Specific Plan, and its related environmental documents and regulatory permits was approved, and Ordinance No. 27454, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for the Coyote Specific Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72711, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund", and Resolution No. 72712, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Fourteen (14) Coyote Valley Specific Plan Consultant Agreements", were adopted. (10-0.)

- 4.9
- (a) **Acceptance of the draft Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) work program.**
 - (b) **Acceptance of the Santa Clara Valley Habitat Conservation Plan budget and cost share principles, identified source of funds and approval of allocation of funds for FY 05-06.**
 - (c) **Approval of the Coyote Housing Group (CHG) Grant Donation Agreement.**
 - (d) **Adoption of the following appropriation ordinance and funding source resolution amendments in the General Fund as follows:**
 - (1) **Increase the Citywide appropriation for the Coyote Valley Specific Plan by \$400,000 for the City's participation in the Santa Clara Valley HCP/NCCP.**
 - (2) **Increase earned revenue from Other Revenue by \$400,000.**

CEQA: Not a Project. (Planning, Building and Code Enforcement/City Manager's Office)

[Deferred from 5/24/05 – Item 4.5(b)]

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase and Budget Director Larry Lisenbee, dated May 18, 2005, recommending as outlined above.

4.9 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the Draft Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan work program, and Santa Clara Valley Habitat Conservation Plan budget and cost share principles, identified source of funds and the allocation of funds for FY 05-06 were accepted; the approval of the Coyote Housing Group Grant Donation Agreement was approved; and Ordinance No. 27455, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for the Coyote Valley Specific Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72713, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund", were adopted. (10-0.)

RECREATION & CULTURAL SERVICES

- 5.2 (a) Approval of an ordinance to amend the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), Chapters 19.38 and 14.25, respectively, of the San José Municipal Code to incorporate additions to the types of parkland and improvements acceptable for dedication and to add and/or clarify certain definitions and sections of the Ordinances as outlined in Attachment A of the memo to Council dated April 19, 2005**
- (b) Adoption of a resolution to amend the fee schedule for PDO/PIO to:**
- (1) Incorporate the 2000 Census data and the findings of the 2004 Land Value Study conducted by Diaz, Diaz and Boyd.**
 - (2) Include Single Room Residential Occupancy Unit (SRO) as an approved dwelling unit type and establish the average number of persons for SRO occupancy as 1 for purposes of calculating PDO/PIO requirements**
 - (3) Set in-lieu fees at 85% of 2004 land values effective January 1, 2006.**
 - (4) Establish the first day of January of the year following the adoption of future adjustments as the effective date for implementation in order to afford the development community adequate notice.**
 - (5) Provide private recreational credits for active elements as recommended.**
 - (6) Provide recreational credits for public improvements as recommended.**

CEQA: Not a Project. SNI: Washington. (Parks, Recreation and Neighborhood Services)

(Deferred from 5/17/05 – Item 5.3)

Action: Continued to June 21, 2005.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of the Water Supply Assessment for North San José Development Policies Update. (Environmental Services/Planning, Building and Code Enforcement) (Rules Committee referral 6/1/05)

Documents Filed: (1) Replacement memorandum dated June 7, 2005, recommending approval. (2) Letter from the Santa Clara Valley Water District, dated June 7, 2005, in reference to the water supply assessment.

Discussion: Director of Planning, Building and Code Enforcement Stephen Haase responded to brief Council inquiry about on-going discussions with the Santa Clara Valley Water District.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and carried unanimously, the Update for the Water Supply Assessment for North San José Development Policies was approved. (10-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:13 p.m. to consider Item 10.1 in a Joint Session.

10.1 Acceptance of the quarterly report on the Citywide Capital Improvement program (CIP), including parks, Library, and Public Safety Bond Projects, and Strong Neighborhoods Initiative (SNI) Projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Documents Filed: (1) Quarterly Status Report on the Citywide Capital Improvement Program and SNI Projects, dated June 7, 2005. (2) Staff slide presentation dated June 7, 2005.

Discussion: Mayor Gonzales and Council Member Reed expressed appreciation to Staff for the progress to date.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez, and carried unanimously, the report was accepted. (10-0.)

The Redevelopment Agency Board portion of the Meeting was adjourned at 2:28 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9579	W/S of N. First Street at Gish Road	3	Bellagio Gardens	1 Lot/26 Units	Multi-family
9707	W/S of Coleman Avenue at Taylor Street	7	Cousins Properties, Inc.	23 Lots	Commercial

OPEN FORUM

- (1) Daniel McCall expressed his displeasure about recent State actions regarding the use of medical marijuana.
- (2) William Garbett asserted that the City violated the Brown and Mello-Roos Acts because certain documents relative to Item 4.6 were not available to the public (Note: Documents available on file in the Office of the City Clerk).

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 2:33 p.m.

RECESS/RECONVENE

The City Council recessed at 2:34 p.m. from the Joint City Council/Redevelopment Agency Board, and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

Present: Council Members - Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Campos. (Excused)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to San José Medical Coalition for its exemplary dedication and invaluable contribution to the San José community. (Mayor/Chavez) (Deferred from 5/3/05 – Item 1.9 et al. and 5/23/05 – Item 1.5)**

Action: Mayor Gonzales and Vice Mayor Chavez presented a commendation to the San José Medical Coalition for their dedicated efforts to raise public awareness and invaluable contributions to the City of San José.

- 1.2 Presentation of commendations to Teresa Pham, Presentation High School, Melba Matthew, Evergreen Valley High School, Abby Alton, Monroe Middle School, and Kavya Shankar, Joaquin Miller Middle School for their award winning essays as part of the SCCAOR Homewords Essay Contest. (Cortese/LeZotte/Yeager) (Rules Committee referral 5/25/05)**

Action: Mayor Gonzales, and Council Members Cortese, LeZotte and Yeager recognized Teresa Pham, Melba Matthew, Abby Alton, and Kavya Shankar for their award winning essays on the topic “Thinking About House and Home”.

- 1.3 Presentation of a commendation to El Observador in celebration of its 25th anniversary and service to the community. (Reed) (Rules Committee referral 5/25/05)**

Action: Item 1.3 was deferred.

- 1.4 Presentation of a commendation to The Digital Clubhouse for service to the Community of San José. (Reed) (Rules Committee referral 5/25/05)**

Action: Mayor Gonzales and Council Member Reed recognized and commended The Digital Clubhouse for their dedication to record the history of the Santa Clara Valley, and produce service projects. The Annual Digital Clubhouse Picnic will be held June 25, 2005, 10:00 a.m. – 5:00 p.m. at History San José.

PUBLIC HEARINGS

(Heard by the City Council at 7:04 p.m.)

- 11.1 Public Hearing and consideration of an ordinance on Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Zoning District to allow residential uses on a 0.20 gross acre site, located at the northeast corner of Younger Avenue and North 6th Street (257 E. Younger Ave.) (Roy Family Partnership, Owner). Director of Planning, Building and Code Enforcement recommend denial and Planning Commission forwards no recommendation (3-3-1). CEQA: Resolution No. 65459.**

C04-102 – District 3

(Continued from 5/3/05 – Item 11.2 and 5/17/05 – Item 11.1)

Discussion: Vice Mayor Chavez recommended the matter be continued to give the applicant an opportunity to withdraw the application.

Action: Continued to June 21, 2005.

- 11.2 Public Hearing on and consideration of approval of an ordinance amending Chapter 20.30, Chapter 20.100 and Chapter 20.200 of Title 20 of the San José Municipal Code to allow increased height limits for amateur radio antennas. CEQA: Exempt, PP05-084.**

Citywide

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on May 13, 2005 submitted by the City Clerk.

Action: Dropped.

- 11.3 Public Hearing on and consideration of approval of an ordinance amending Chapter 20.20, Chapter 20.30, Chapter 20.40, Chapter 20.50, Chapter 20.80, Chapter 20.100, and Chapter 20.200 of Title 20 of the San José Municipal Code to streamline the review process for wireless communications antennas. CEQA: Exempt, PP05-085. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0).**

Citywide

Documents Filed: Memorandum from Planning Commission Secretary Stephen Haase, dated May 26, 2005, transmitting the Planning Commission recommendation.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

11.3 (Cont'd.)

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27468, entitled: "An Ordinance of the City of San José Amending Section 20.20.100 of Chapter 20.20, Amending 20.30.100 and Adding Sections 20.30.130 and 20.30.140 to Chapter 20.30, Amending Section 20.40.100 of Chapter 20.40, Amending 20.50.100 of Chapter 20.50, Amending Section 20.80.1900 and Adding Section 20.80.1910 to Chapter 20.80, Amending Section 20.100.1300 of Chapter 20.100 and Amending Section 20.200.1420 and Adding Section 20.200.1425 to Chapter 20.200, All of Title 20 of the San José Municipal Code to Streamline the Review Process for Certain Wireless Communication Antennae", was passed for publication. (9-0-1. Absent: Campos.)

11.4 **Public Hearing on and consideration of approval of an ordinance to establish a 12-month pilot program to allow sidewalk café permits to be issued to businesses that serve alcohol and have an entertainment permit. CEQA: Exempt, PP05-099. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0). Citywide**

Documents Filed: (1) Memorandum from Mayor Gonzales and Vice Mayor Chavez, dated June 6, 2005, recommending amending the ordinance and direction to Staff. (2) Memorandum from Planning Commission Secretary Stephen Haase, dated May 19, 2005, transmitting the Staff report. (3) Memorandum from Planning Commission Secretary Stephen Haase, dated May 26, 2005, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on May 13, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27456, entitled: "An Ordinance of the City of San José To Establish a Pilot Program Allowing Sidewalk Café Permits in Conjunction with a Public Entertainment Permit and Alcohol Sales Until a Date No later than July 22, 2006", was passed for publication, and was amended as follows: (1) Amend the proposed ordinance to allow operation of a sidewalk café of the associated establishment to be limited to the business applicant hours of operation or until midnight, whichever is earlier. (2) Conduct a review of this policy by Planning, Building and Code Enforcement Department, the Police Department and the Redevelopment Agency in five months to evaluate success and challenges associated with implementation and return to the City Council with this analysis and any proposed changes based on the review. (3) Direct the Manager and the Redevelopment Agency Executive Director to complete outreach to downtown businesses to educate them on this new opportunity. (4) Additionally, the Planning and Police Staff were further directed to return to Council immediately should any problems occur during the five month review period. (8-0-2. Absent: Campos, Yeager.)

**11.5 Public Hearing on and consideration of approval of an ordinance amending Chapter 20.40 of Title 20 of the San José Municipal Code to streamline development standards in commercial districts and to remove the CP Commercial Pedestrian District use size restriction for the West San Carlos Street Neighborhoods Business District. CEQA: Exempt, PP05-100. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0).
Citywide**

Documents Filed: (1) Memorandum from Planning Commission Secretary Stephen Haase, dated May 26, 2005, transmitting the Planning Commission recommendation. (2) Memorandum from Planning Commission Secretary Stephen Haase, dated May 19, 2005, transmitting the Staff report. (3) Proof of Publication of Notice of Public Hearing, executed on May 13, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Gary Baker spoke in favor of the recommendation. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27457, entitled: “An Ordinance of the City of San José Amending Sections 20.40.010, 20.40.130 and 20.40.300 and Repealing Section 20.40.280 and 20.40.310, All of Chapter 20.40 of Title 20 of the San José Municipal Code, To Streamline and Clarify Processes Related to Commercial Zoning Districts and Amending Section 20.40.200 of Chapter 20.40 of Title 20 of the San José Municipal Code to Remove the CP Commercial Pedestrian District Use Size Restriction for the West San Carlos Street Neighborhood Business District”, was passed for publication. (9-0-1. Absent: Campos.)

**11.6 Public Hearing on and consideration of approval of an ordinance amending Section 23.04.610 of Chapter 23.04 of Title 23 of the San José Municipal Code to exempt from signage regulations signage at temporary outdoor events in the Downtown Core with an event permit. CEQA: Exempt, PP05-108. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
Citywide**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 27, 2005, recommending approval of the proposed ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

11.6 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 27458, entitled: "An Ordinance of the City of San José Amending Section 23.04.610 of Chapter 23.04 of Title 23 of the San José Municipal Code to Exempt Certain Temporary Signage Associated with Temporary Outdoor Use of Private Property in the Downtown Core", was passed for publication. (9-0-1. Absent: Campos.)

11.7 **Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from CN Commercial Neighborhood Zoning District to CG(PD) Planned Development Zoning District to allow the expansion of an existing vehicle inventory storage lot for the adjacent automobile dealership and the continuation of an existing drive through fast food restaurant (Taco Bell) on a 1.57 gross acre site, located at the southeast corner of Stevens Creek Boulevard and Boynton Avenue (3680 Stevens Creek Boulevard) (Eric Hoffman Family Limited Partnership, Owner; GM Worldwide Real Estate, Moya Kelly, Developer). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval.** **PDC04-101 - District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-101, dated May 16, 2005, recommending approval on the subject property. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 31, 2005, transmitting additional information. (3) Proof of Publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Discussion: Council Member LeZotte asked the project representative, Mr. Butterfield, to confirm that there was an agreement to save a large Redwood tree, as mentioned in a facsimile she received and entered into the record. She noted she would support the project as long as issues relating to the setback of the fence and the sparring of two trees were agreed upon. She asked Staff to consult with the City Arborist.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 27459, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Stevens Creek Boulevard and Boynton Avenue (3680 Stevens Creek Boulevard) to CG(PD) Planned Development Zoning District", was passed for publication, including the Landscape Architect's rendering of the project site, with Staff directed to confirm with the City Arborist the setback of the fence and wall, and that the trees RT5 and RT19 will be saved. (9-0-1. Absent: Campos.)

- 11.8 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP District to IP(PD) District to allow indoor recreational uses in an existing 246,302 square-foot industrial building on a 16.4 gross-acre site, located at/on the southwest corner of Hellyer Avenue and Embedded Way (Branham Way East) (800 Embedded Way) (Carl E. Berg, Owner and Developer). SNI: None. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1-0).
PDC05-004 - District 2**

Action: Continued to June 21, 2005. To be heard after 12.1(a)(1).

- 11.9 Public Hearing on and consideration of approval of an ordinance on Rezoning from CG Commercial General Zoning District to DC Downtown Primary Commercial Zoning District to allow residential uses on a 0.09 gross acre site located at the northwest corner of North 2nd Street and Devine Street (257 North 2nd Street) (Walter Harding, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
C04-067 - District 3**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated June 7, 2005, recommending approval of the Staff and Planning recommendation with additional direction. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 12, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on April 29, 2005, and May 11, 2005, submitted by the City Clerk.

Motion: Vice Mayor Chavez moved approval of the Staff and Planning recommendation and her memorandum dated June 7, 2005. Council Member Reed seconded the motion.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 27460, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of North 2nd Street and Devine Street (257 North 2nd Street) to DC Downtown Primary Commercial Zoning District", was passed for publication, with Staff directed to address the following issues during the Site Development Phase: (1) Incorporation of high level architectural detailing consistent with the adjacent Germania Club, as currently proposed within the Site Development Permit application. (2) Limiting development to two, two-story homes that are pulled away from 2nd Street and do not intrude within the joint easement shared with the Germania Club, as

11.9 (Cont'd.)

currently proposed within the Site Development Permit application. (3) Incorporation of extensive sound attenuation as proposed by the applicant, including removing openings along the northern frontage and other design features. (4) Location of ventilation intakes away from the northern property line in order to prevent pulling odors from the Germania Club kitchens into the project. (5) Incorporation of fire escape gates through the driveway to allow easy evacuation from the Germania Club above and beyond what is required by Code, as proposed by the applicant. (9-0-1. Absent: Campos.)

11.10 Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from CP Commercial Pedestrian Zoning District to R-2 Two Family Residence Zoning for residential uses on a 0.12 gross acre site, located at/on the south side of Willow Street, approximately 100 feet easterly of Palm Street (312 Willow Street) (City of San José, Owner). SNI: Washington. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. C05-033 - District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-033, dated May 18, 2005, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 27461, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Willow Street, Approximately 100 Feet Easterly of Palm Street (312 Willow Street) to R-2 Two Family Residence Zoning District”, was passed for publication. (9-0-1. Absent: Campos.)

11.11 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from LI Light Industrial zoning district to A(PD) Planned Development Zoning District to allow up to 119 single-family attached residential units (18 townhomes and 101 podium apartments) on a 3.1 gross acre site, located at/on the Southeast corner of East Mission Street and North 10th Street (Westmount Square LLC, Owner). SNI: 13th Street. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0). PDC04-063 - District 3

Action: Continued to June 21, 2005.

- 11.12 Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 147 single-family attached residences on a 3.9 gross acre site, located at the southeast corner of East Virginia Street and South 5th Street (250 East Virginia Street) (250 E. Virginia LLC, Owner). SNI: Spartan/Keyes. CEQA: Mitigated Negative Declaration.
PDC05-029 - District 3**

Action: Continued to June 21, 2005.

- 11.13 Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow four additional multi-family attached residences to the previously approved 39 multi-family attached residences for a total of 43 units on a 0.61 gross acre site, located at the northeast corner of East Julian Street and North First Street (320 N. 1st Street) (City of San José, Owner). SNI: 13th Street. CEQA: Resolution No. 64273. Director of Planning, Building and Code Enforcement recommend approval.
PDC05-032 - District 3**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated June 7, 2005, recommending approval of the proposed rezoning, including further direction to Staff. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-032, dated May 19, 2005, recommending approval on the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk. (4) Letter from Mezzetti Family Trust, dated June 6, 2005, regarding the subject rezoning.

Mayor Gonzales abstained due to a conflict of interest (resides in the vicinity of the project).

Motion: Vice Mayor Chavez moved approval of the proposed Conforming Planned Development Rezoning and her memorandum dated June 7, 2005. Council Member Reed seconded the motion.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director was approved and Ordinance No. 27462, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of East Julian Street and North 1st Street (320 North 1st Street) to A(PD) Planned Development Zoning District", was passed for publication, with the requirement of the minimum of 64 parking spaces within the project; and: Direction to Staff for implementation during the Planned Development (PD) Permit Phase: (1) Continue to work with the neighboring property owners on landscape and design refinements through the PD Permit Phase. (2) Explore during the PD Permit Phase: (a) Alternate locations for

11.13 (Cont'd.)

garbage storage, to minimize potential odor impacts to neighbors; (b) Potential solutions to limit noise from AC units along eastern portion of site, including moving the units or utilizing smaller, quieter units; (c) Additional parking above and beyond the 64 required by zoning. (3) Incorporate conditional use provisions related to garbage pick up with the PD Permit. (8-0-1-1. Disqualified: Gonzales. Absent: Campos.)

11.14 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 91 single-family attached residences on a 4 gross acre site, located on the northwest corner of King and Mabury Roads (1685 Mabury Road) (Cherry Acres, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommend approval. Planning Commission recommend denial (5-1-0-1).

PDC04-093 - District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-093, dated April 20, 2005, recommending approval on the subject property. (2) Replacement memorandum from Secretary of Planning Commission Stephen Haase, dated May 12, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated June 7, 2005, transmitting a letter from VTA. (4) Proofs of Publications of Notice of Public Hearings, executed on April 22, 2005, May 1, 2005 and May 11, 2005, submitted by the City Clerk. (5) Letter from Berryessa Citizens Advisory Council, dated May 23, 2005, regarding the Cherry Acres Development.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Discussion: Council Member Reed spoke in favor of the project. Deputy Director of Planning, Building and Code Enforcement Joe Horwedel responded to questions from Council Member Williams about transit related issues. Deputy Director Horwedel emphasized that the project meets General Plan criteria.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, the recommendation of the Planning Director was approved, and Ordinance No. 27463, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of King and Mabury Road (1685 Mabury Road) to A(PD) Planned Development Zoning District", was passed for publication. (9-0-1. Absent: Campos.)

- 11.15 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Residence Zoning to A(PD) Planned Development Zoning District to allow up to seven single-family detached residences on a 0.95 gross acre site, located on the west side of Delmas Avenue at the terminus of Dorothy Avenue (1235 Delmas Avenue) (Lo Bue Victor J Trustee & et al., Owner: Stonebridge Development Brandon August, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0), with staff's recommended draft Development Standard modified to allow a minimum 20-foot front setback for an attached garage on the southern-most home and a minimum 5-foot setback from any building to the adjacent future trail corridor.**
PDC04-092 - District 6

Documents Filed: (1) Memorandum from Council Member Yeager, dated June 6, 2005, recommending approval of the Planning Commission recommendation with additional direction. (2) Memorandum from Planning Commission Secretary Stephen Haase, dated May 12, 2005, transmitting the Planning Commission recommendation. (3) Proofs of Publications of Notices of Public Hearings, executed on April 29, 2005, and May 11, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Harvey Darnell, Ed Rast and Gerry de Young spoke in favor of the proposed rezoning. Mayor Gonzales closed the public hearing.

Motion: Council Member Yeager moved approval of the Planning Commission recommendation, and his memorandum dated June 6, 2005, with direction, and including the further addition of the installation of antique streetlights. Council Member Pyle seconded the motion.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27464, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Delmas Avenue at the Terminus of Dorothy Avenue (1235 Delmas Avenue) to A(PD) Planned Development Zoning District", was passed for publication, including the following direction: (1) During the Planned Development (PD) Permit process, Staff was directed to work with the developer to decide if three parking spots on the private street can be added, as well as the installation of antique streetlights. (2) Install a gate at the rear of the project near the cul-de-sac so that the property owners can enter the trail from this development. (3) Include the language in the Homeowner's Association Regulations so that Police Officers can enter the private street to help patrol the trail. (4) Ask the applicant to work with the Neighborhood Association so that the community has the opportunity to make sure that the existing three homes can be moved or salvaged. (5) Work with the City's Department of Transportation to install a three-way stop sign at the intersection of Dorothy and Delmas Avenues. (6) Ask the applicant to work with the Neighborhood Association on the project's architecture during the PD Permit process. (9-0-1. Absent: Campos.)

- 11.16 Public Hearing on and consideration of approval of an ordinance on a Director-Initiated Conforming Rezoning from R-2 Two-Family Residence, R-M Multiple Residence, CO Commercial Office, CN Commercial Neighborhood, CG Commercial General, and LI Light Industrial Zoning Districts to CP Commercial Pedestrian Zoning District on an approximately 30 gross acre site, located on both sides of West San Carlos Street & Stevens Creek Boulevard, extending from Highway 17/Interstate 880 to Grand Avenue. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval.
CC01-072 thru CC01-078 - District 6**

Action: Continued to June 21, 2005.

- 11.17 Public Hearing on and consideration of approval of an ordinance on Conventional Rezoning from IP Industrial Park Zoning District to CN Neighborhood Commercial Zoning District to allow commercial uses on a 0.88 gross acre site, located at/on the northwest corner of Story Road and McLaughlin Avenue (1145 Story Road) (Story-McLaughlin Plaza LLC, Kim Hue Nguyen, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0).
C05-007 - District 7**

Action: Continued to June 21, 2005. To be heard after 12.3(a).

- 11.18 Public Hearing on and consideration of approval of an ordinance on Planned Development rezoning from A(PD) Planned Development to A(PD) Planned Development to allow night club uses at an existing assembly hall (G.I. Forum) on a 3.4 gross acre site, located 900 feet northerly of Story Road and approximately 2,300 feet westerly of McLaughlin Avenue (765 Story Road) (The American G.I. Forum, Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-1-1-0).
PDC00-030 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC00-030, dated May 16, 2005, recommending denial on the subject property. (2) Memorandum from Planning Commission Secretary Stephen Haase, dated May 26, 2005, transmitting the recommendation of the Planning Commission. (3) Proofs of Publication of Notices of Public Hearings, executed on April 29, 2005, and May 13, 2005 submitted by the City Clerk.

Discussion: Staff responded to questions about the history of this application. Council Member Cortese expressed concerns about denying the application without giving the applicant some additional time to complete. He asked Staff if the application could be completed in 120 days. Deputy Director of Planning, Building and Code Enforcement Joe Horwedel explained that if the applicant was diligent, it might be possible to complete the environmental documentation. Additional Council questions followed.

11.18 (Cont'd.)

Motion: Council Member Cortese moved to refer this rezoning back to Staff, and for Staff to return to Council within 120 days with a completed application or a denial. Council Member Williams seconded the motion.

Public Comment: Mayor Gonzales opened the public hearing. Bertha Ward, Abel Cota, American GI Forum, and Martin Renteria urged the Council to consider issues relating to traffic and unlawful activities. In addition, the public recommended that Wal Mart be involved. Mayor Gonzales closed the public hearing.

Action: On a call for the question, the motion carried, the Ordinance was not approved, and Staff was directed to return in 120 days with the completed application or a denial of the application. (6-3-1. Noes: Chirco, LeZotte; Gonzales. Absent: Campos.)

- 11.19 Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from R-1-5 (PD) Zoning District to CO Commercial Office Zoning District to allow office uses on a 0.66 gross acre site, located on the east side of South White Road, approximately 300 feet south of Westgrove Lane (3160 South White Road) (Bracamontes Rigoberto Trustee, John D'Amico Jr., Trustee & et al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0). C05-010 - District 8**

Action: Continued to June 21, 2005. To be heard after 12.1(c)(1).

- 11.20 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development Zoning District to (1) A(PD) Planned Development Zoning District on 5.74 acres to allow up to 25 single-family detached residences and (2) A Agriculture District on 3.18 acres to allow continued use of a single-family residence, located at the northwest corner of McAbee Road and Skyfarm Drive (17571 McAbee Road) (Anthony G. Pierce Sr., Owner; Summerhill Homes, Elaine Breeze, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1). PDC05-003 - District 10**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-003, dated May 4, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 16, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on April 29, 2005, and May 11, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. David Armstrong spoke regarding the proposed rezoning. Mayor Gonzales closed the public hearing.

11.20 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27465, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of McAbee Road and Skyfarm Drive (17571 McAbee Road) to A(PD) Planned Development Zoning District as to a Certain 5.74 Acres and to A Agricultural Zoning District as to a Certain 3.18 Acres", was passed for publication. (9-0-1. Absent: Campos.)

11.21 Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 32 multi-family attached residences on a 1.42 gross acre site, located at the northeast corner of Almaden Expressway and Coleman Road (15520 Almaden Road) (City of San José, Owner). CEQA: Negative Declaration and Addendum therein. Director of Planning, Building and Code Enforcement recommend approval. PDC04-064 - District 10

Action: Continued to June 21, 2005.

GENERAL PLAN PUBLIC HEARINGS

(Heard by the City Council at 7:04 p.m.)

- 12.1 (a) Public Hearing on the following items located on the southwest corner of Hellyer Avenue and Embedded Way, formerly, Branham Lane East (800 Embedded Way) on an approximately 16.4-acre site. (Carl Berg, Owner and Applicant).**

(1) PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment Industrial Park with the Mixed Industrial Overlay on a 16.4-acre site. (5-1-1; Campos opposed, Pham absent).

GP04-02-03 - District 2

(2) PUBLIC HEARING ON TENTATIVE APPROVAL OF PLANNED DEVELOPMENT REZONING request to allow indoor recreational uses in an existing 246,302 square-foot industrial building and the addition of approximately 9,000 square feet to the second floor and parking. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of reusing an existing industrial building and the addition of approximately 9,000 square feet to the second floor and parking on a 16.4-acre site. (5-1-1; Campos opposed, Pham absent).

PDC05-004 - District 2

- (b) PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial Combined Industrial/Commercial for property located on the east side of Senter Road, approximately 200 feet northwesterly of Quinn Avenue on a 3.86-acre site. (Victor J. LoBue, The LoBue Living Trust, Owner/Aaron Barger, Green Valley Corporation dba Barry Swensen Builder, Applicant). CEQA: Mitigated Negative Declaration adopted on May 11, 2005. (Autumnvale Associates, Inc., Owner/CW Land Consultants, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Light Industrial to Combined Industrial/Commercial. (6-0-1, Pham absent).**

GP04-07-03 - District 7

Action: Continued to June 21, 2005.

12.1 (c) Public Hearing on the following items located at the east side of South White Road (3160 South White Road), approximately 920 feet northerly of Aborn Road on a 0.66-acre site. (Bracamantes 2001 Trust, Owner/ Rigo Bracamantes, Applicant).

(1) PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Office. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Office. (6-0-1, Pham absent).

GP04-08-01 - District 8

(2) PUBLIC HEARING ON CONFORMING REZONING request to change from R-1-5 (PD) Zoning District to CO - Commercial Office Zoning District to allow office uses. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a Conforming Rezoning to change from R-1-5 (PD) Zoning District to CO-Commercial Office Zoning District to allow office uses. (5-1-1; Campos opposed, Pham absent).

C05-010 - District 8

Action: Continued to June 21, 2005.

12.2 PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) for property located on the southwest corner of North Capitol Avenue and Autumnvale Drive on a 4.01-acre site. (Autumnvale Associates, Inc., Owner/CW Land Consultants, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of no change to the General Plan. (5-1-1; Campos opposed, Pham absent).

GP04-04-04 - District 4

Action: Continued to June 21, 2005.

- 12.3 (a) PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to General Commercial. CEQA: Mitigated Negative Declaration, GP04-07-02. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to General Commercial. (6-0-1, Pham Absent).
GP04-07-02 - District 7**
- (b) PUBLIC HEARING ON TENTATIVE APPROVAL OF PLANNED DEVELOPMENT PREZONING from IP Industrial Park Zoning District to CN Commercial Neighborhood Zoning District to allow commercial/retail uses. CEQA: Mitigated Negative Declaration, C05-007. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval of a rezoning from IP Industrial Park Zoning District to CN Neighborhood Commercial Zoning District to allow commercial uses. (6-0-1, Pham Absent).
C05-007 - District 7**

Action: Continued to June 21, 2005.

- 12.4 Continue the adoption of a resolution approving all General Plan amendment actions to June 21, 2005. (Planning, Building and Code Enforcement)**

Action: Continued to June 21, 2005.

OPEN FORUM

- (1) Michael David Yanis urged the Council to keep the Alma Senior Center open.
- (2) Joyce McDonnell expressed concerns about parking problems at the Mid Town Plaza.
- (3) Gary Minnaert mentioned that traffic calming efforts should be used at the Mid Town Plaza.
- (4) Mike Flaughner stated the bridge on King Road is too narrow (King and Mabury Roads project) with no safe access for pedestrians or bicycles.
- (5) Kerri Hamilton expressed concern that the setback is too close to the existing buildings (King and Mabury Roads project).
- (6) Rick Carreiro expressed concerns about vagrancy issues at the Auzerais Park bathroom.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Miguel Contreras at 8:58 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/6/7/05min

JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 2:34 p.m. to consider Items 8.1 and 8.2 in a Joint Session

- 8.1 Approval by the Redevelopment Agency Board and the City Council for the assignment of a parking agreement between the Redevelopment Agency and Hotel Sainte Claire Partners, L.P. from the Redevelopment Agency to the City of San Jose. [MERGED]**

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes and City Manager Del Borgsdorf, dated June 7, 2005, recommending approval of an agreement.

Action: Upon motion by Council Member Reed, seconded by Council Member Williams, and carried unanimously, the parking agreement was approved. (9-0-1. Absent: Chavez.)

- 8.2 Approval by the City Council of the first amendment to the Ground Lease between the City of San Jose and the Almaden Hills United Methodist Church for the Hoffman/Via Monte Neighborhood Center, increasing the size of the site at no additional cost. CEQA: Exempt; PP04-06-185 [SNI: HOFFMAN/VIA MONTE]**

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes and City Manager Del Borgsdorf, dated June 7, 2005, recommending approval of an amendment.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, the first amendment to the Ground Lease was approved. (9-0-1. Absent: Chavez.)

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 2:37 p.m.